

**Amendment and Response**

Applicant: Daniel D. Baker

Serial No.: 10/627,431

Filed: July 25, 2003

Docket No.: 58912US002

Title: APPARATUS AND METHOD FOR HANDLING LINERLESS LABEL TAPE

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**REMARKS**

The following remarks are made in response to the Action mailed June 7, 2004.

In the Office Action, the Examiner stated that restriction to one of the following inventions is required under 35 U.S.C. §121: Group I (claims 1-7 and 22-28) or Group II (claims 8-21 and 29-37). Also in the Office Action, the Examiner objected to the drawings for failing to comply with 37 C.F.R. §1.84(p)(5). The Examiner also objected to the Specification due to minor informalities. Claims 11, 14, and 30-31 were also objected to due to minor informalities. Claims 11-14 were objected to under 35 C.F.R. §1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

The Examiner also rejected claims 8-21 and 29-37 under 35 U.S.C. §§102(b) and 103(a). In particular, the Examiner rejected claims 8, 29, and 32-36 under 35 U.S.C. §102(b) as being anticipated by Wood et al., U.S. Patent Application Publication No. 2002/0090244 ("Wood"). Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Wood in view of Saiki et al., U.S. Patent No. 4,577,199 ("Saiki"). Claims 10-12, 14-20, and 30-31 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wood in view of Traise, U.S. Patent No. 5,853,117 ("Traise"). Further, the Examiner indicated that claims 12 and 14 were rejected "along with claim 8" as they add no further structure to the apparatus claim. Claim 13 was rejected under 35 U.S.C. §103(a) as being unpatentable over Wood in view of Traise as applied to claims 10-12, 14-20, and 30-31 above, and further in view of Baranyi, U.S. Patent No. 4,685,815 ("Baranyi"). Claim 37 was rejected under 35 U.S.C. §103(a) as being unpatentable over Wood in view of Baranyi. Claim 21 was rejected under 35 U.S.C. §103(a) as being unpatentable over Wood in view of Traise as applied to claims 10-12, 14-20, and 30-31 above, and further in view of Saiki.

With this Amendment and Response, claims 1-7 and 22-28 have been cancelled and claims 8, 11-14, 16, 18, 19, 29 and 30 have been amended. Claims 8-21, and 29-37 remain pending in the application and are presented for reconsideration and allowance.

**Restriction under 35 U.S.C. §121**

During a telephone conversation between the Examiner and Melissa Buss on May 5, 2004, a provisional election with possible traverse was made to prosecute the invention of Group

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II (claims 8-21 and 29-37). With this Amendment and Response, the Applicant hereby formally elects Group II, claims 8-21 and 29-37 without traverse and formally cancels claims associated with the non-elected invention.

**Objections to the Drawings under 37 C.F.R. §1.84(p)(5)**

The Examiner objected to the drawings as failing to comply with 37 C.F.R. §1.84(p)(5) because they did not include reference numeral “144” mentioned within the Specification. In order to remedy the basis of the Examiner’s objection, the paragraph beginning at page 17, line 14 of the Specification has been amended to remove reference numeral “144.” More specifically, reference numeral “144” has been replaced with reference numerals “144a” and “144b,” which were previously incorporated into Figures 3 and 4 of the drawings.

The Examiner also objected to the drawings as failing to comply with 37 C.F.R. §1.84(p)(5) because the drawings included reference numerals “64,” “142a,” and “142b” not previously mentioned in the Specification. In order to remedy the Examiner’s objection to the reference numeral “64,” the paragraphs beginning at page 13, line 26 and page 18, line 1 have been amended to include reference numeral “64” as designating “a roll 64.” Support for these changes is believed provided with Figures 1 and 3. More specifically, it is believed that those having ordinary skill in the art would recognize the ribbon roll 64 in light of the previously identified tape roll 14 and what would otherwise be understood according to the ordinary level of skill in the art. In order to remedy the Examiner’s objection to the reference numerals “142a” and “142b,” the reference numerals have been amended from Fig. 3 of the drawings in the appended replacement sheet of drawings.

Therefore, in light of the above-described amendments, it is believed that the drawings comply with the requirements of 37 C.F.R. §1.84(p)(5), and as such, are no longer objectionable to on those grounds. Accordingly, it is respectfully requested that the Examiner withdraw the objection.

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**Objection to the Specification**

The Examiner objected to the Specification based upon the informality that on page 6, line 16 the word “of” between “apparatus” and “further” was unnecessary. With this Amendment and Response, the word “of” has been amended as indicated. Additionally, various amendments have been made to the Specification in an effort to remedy additional grammatical or otherwise obvious mistakes. In light of the above, it is believed that the Specification is no longer objectionable based upon informalities. As such, it is respectfully requested that the Examiner withdraw the objection.

**Objection to Claims 11, 14, and 30-31**

The Examiner objected to claims 11, 14, and 30-31 based upon various informalities. Claims 11, 14, and 30-31 have been amended in an effort to remedy the typographical and unintentional errors previously present in the above-mentioned claims. Claims 12, 16, 18, and 19 have also been amended to remove typographical and unintentional errors previously present in those claims. As such, it is believed that the claims are no longer objectionable based upon informalities. As such, it is respectfully requested that the Examiner withdraw any objection on those grounds.

**Objection to Claims 11-14 under 37 C.F.R. §1.75(c)**

The Examiner objected to claims 11-14 under 37 C.F.R. §1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. With this Amendment and Response, claims 11-14 have been amended in an effort to remedy the Examiner’s objection.

Claims 11, 12, 13, and 14 have been amended such that the apparatus is configured in the manner indicated, respectively.

Support for the amendment to claim 11 can be found, for example, at the paragraph beginning at line 8, page 15 of the Specification.

Support for the amendment to claim 12 can be found, for example, at the paragraph beginning at line 27, page 15 of the Specification.

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Support for the amendment to claim 13 can be found, for example, at the paragraph beginning at line 4, page 19 of the Specification.

Support for the amendment to claim 14 can be found, for example, at the paragraph beginning at line 3, page 17 of the Specification.

**Rejections under 35 U.S.C. §§102 and 103**

The Examiner rejected claim 8 under 35 U.S.C. §102(b) as being anticipated by Wood. Claim 8, as amended, relates to an apparatus for printing on a continuous web of linerless tape comprising a support, a driven platen roller, a print head, and a driven roller positioned adjacent the platen roller and downstream of the print head for pulling the web of linerless tape from the platen roller, wherein the apparatus is characterized by the absence of a roller forming a nip with the driven roller. Support for amendment of claim 8 to incorporate the above-cited language is provided by the Specification at page 14, lines 9-26 and Figures 1 and 3, for example. The exemplary support exists, as those having ordinary skill in the art would recognize the drawings and accompanying text to indicate the absence of a nip defined by the driven roller and another roller. For at least the reasons below, claim 8 presents patentably distinct material from the cited references.

In rejecting claim 8, the Examiner offers that a second roller 82 of Wood provides a driven roller as required by the limitations of claim 8. With reference to paragraph 37 and Figures 1, 2, and 4A of Wood, it is clear that Wood specifically teaches that the second roller 82 forms a nip with the first roller 80 to “engage the tape” in order to act as a “stripping apparatus.”

Additionally, claim 8 as amended presents patentably distinct matter from the other references cited by the Examiner in the Office Action. For example, see Saiki, Figure 2 (conveying roller 6 and pressure roller 7 forming a nip), and Traise, Figure 1 (input rolls 12 and 14 defining a nip and a pair of out feed rolls 30 and 32 defining a nip). As such, the Examiner’s rejection of claim 8 is respectfully traversed as the limitations of claim 8 as amended are neither taught nor suggested by the cited references. Therefore, withdrawal of that rejection with accompanying allowance of claim 8 as amended is requested.

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The Examiner rejected claim 29 under 35 U.S.C. §102(b) as being anticipated by Wood. Claim 29 as amended relates to a method of printing indicia on a continuous web of linerless tape including driving a driven roller to pull a portion of the web from a platen roller when a print head is not printing indicia on a print side of the linerless tape by wrapping the web at least partially about the driven roller. Support for amendment of claim 29 to incorporate the above-cited language is provided by the Specification at page 14, lines 18-30 and Figures 1-4, for example. For at least the reasons below, Wood fails to teach or suggest the limitations of claim 29 as amended.

In rejecting claim 29, the Examiner offers that a second roller 82 of Wood provides a driven roller as required by the limitations of claim 29. With reference to paragraph 43 of Wood, for example, Wood specifically teaches prevention of “undesirable adhesion of the linerless tape 20 to the second roller 32 (and thus, wrap-around the second roller 82)...” Thus, Wood clearly does not teach driving a driven roller to pull a portion of the web from a platen roller by wrapping the web at least partially about the driven roller. In fact, Wood unarguably teaches away from such a method. Indeed, similar to the reasoning set forth above in traversing rejection of claim 8, it is clear that Wood specifically teaches that the second roller 82 forms a nip with the first roller 80 to “engage the tape” in order to act as a “stripping apparatus” from a platen roller. As such, the Examiner’s rejection of claim 29 is respectfully traversed, and withdrawal of the rejection of claim 29 as amended with accompanying allowance is requested.

Claims 9-21, and 30-37 depend, in some form, from independent claims 8 and 29 as amended. As such, it is believed that those claims present patentably distinct material from the cited references for at least the reasons described above in association with independent claims 8 and 29, as amended. Furthermore, those claims can be distinguished from cited references on additional grounds.

For example, in rejecting claim 35 the Examiner states that Wood teaches a driven roller positioned relative to a platen roller to define a wrap angle of linerless tape around the driven roller between 10° – 180°. In support of this position, the Examiner references page 5, paragraph 36 of Wood. However, the cited language relates to a wrap angle around the platen roller, not the driven roller as otherwise recited in claim 35. As mentioned above, the Examiner utilizes the

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platen roller 24 and second roller 82 of Wood to supply the “driven platen roller” and “driven roller” limitations, respectively, of claim 29. Paragraph 36 of Wood describes only a wrap angle about the platen roller 24. In contrast, claim 35 recites a wrap angle about the driven roller. Thus, the cited language of Wood does not support the rejection. In fact, Wood teaches away from the limitations of claim 35. Clearly if Wood seeks to avoid wrapping about the roller 82, Wood would also teach away from a wrap angle between 10° – 180°. Additionally, claim 18 has been amended to incorporate limitations similar to those of claim 35. Therefore, for at least these additional reasons, both claims 18 and 35 are believed to present patentably distinct material from the references cited by the Examiner.

**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 8-21 and 29-37 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 8-21 and 29-37 is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

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The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Respectfully submitted,

Daniel D. Baker,

By his attorneys,

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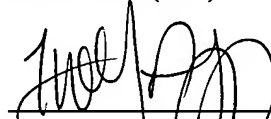
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CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 9th day of September, 2004.

By 

Name: Timothy A. Czaja

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**IN THE DRAWINGS**

The Attached sheets of drawings correct typographical errors in Figure 3 and replace the original sheet including Figure 3.

Attachments: Replacement Sheet (1)

Annotated Sheet Showing Changes (1)



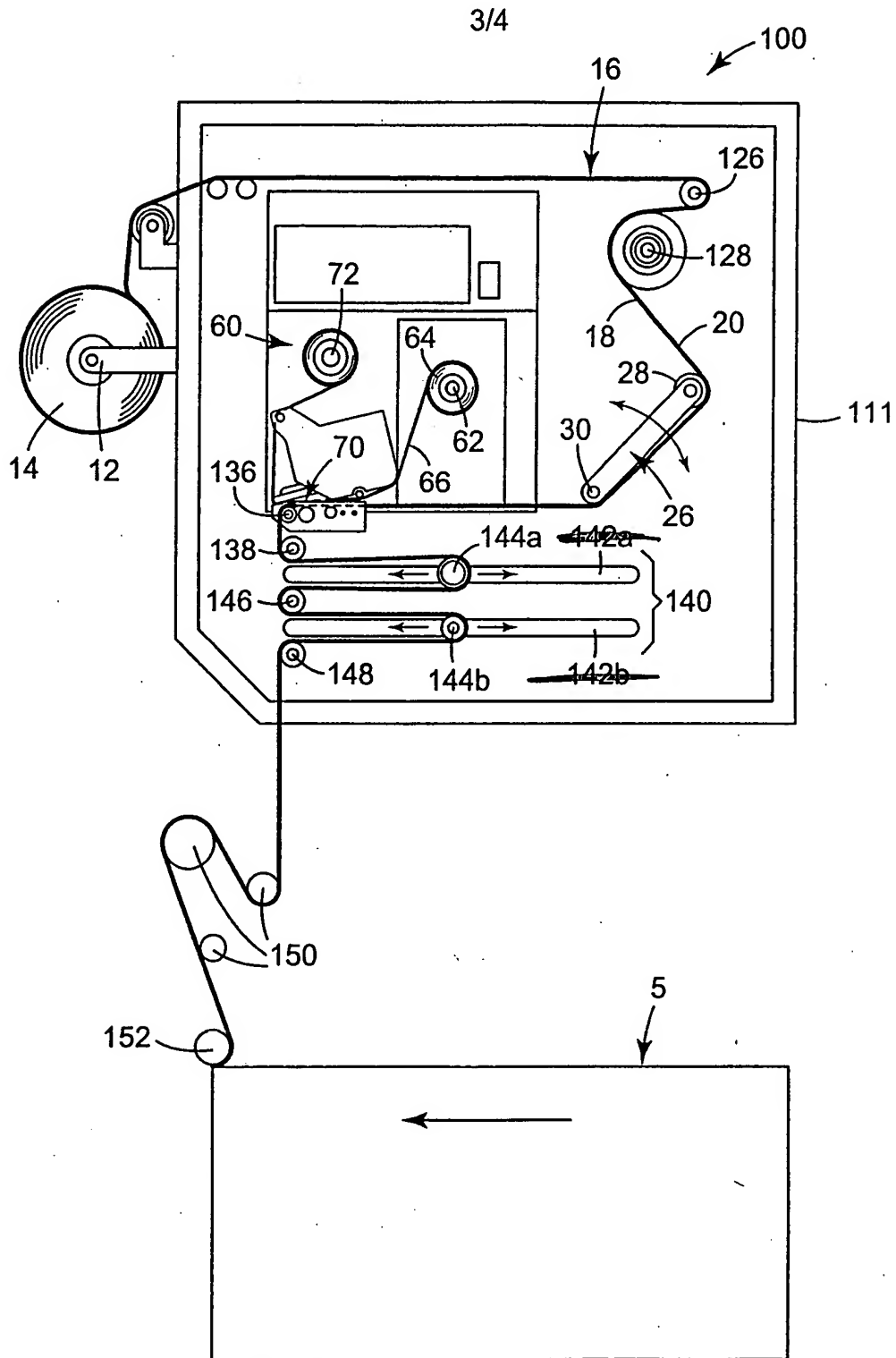


FIG. 3